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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/666,630	09/20/2000	Kaushal Kurapati	US000240	5682

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

MA, JOHNNY

ART UNIT PAPER NUMBER

2617

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/666,630

Applicant(s)

KURAPATI, KAUSHAL

Examiner

Johnny Ma

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Please see attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


VIVEK SRIVASTAVA
PRIMARY EXAMINER

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 8/24/2005 have been fully considered but they are not persuasive.

Regarding Applicant's first argument, Applicant argues Bedard fails to disclose or suggest establishing at least two viewing history sub-sets, generating a set of program recommendation scores for a set of programs in a given time interval based on at least two viewing history subsets and comparing the sets of program recommendation scores to identify a change in viewer preferences, as recited by Applicant's Claim 1." The examiner first notes that applicant appears to argue against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Specifically, the Yoshinobu reference was relied upon the teaching of accounting for types of programming that are frequently watched in a particular time period (time intervals) (Yoshinobu 12:1-58). Furthermore, the examiner respectfully submits that the Bedard reference discloses two viewing history sub-sets. As discussed in the previous Office Action, the Bedard reference discloses "at least two viewing history sub-sets," recent selections (viewing history subset 1) and old selections (viewing history subset 2) (Bedard 6:33-63). Specifically, the Bedard reference discloses a new entry 202, a second subset of the viewing history, with the viewer profile array 200, a first subset of the viewing history (Bedard 6:47-62). The claimed generating a set of program recommendation scores for a set of programs...based on at least two viewing history subsets was met by the

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ranking by relevance based on the amount of time the corresponding channels have been viewed during the viewing profile collections period (Bedard 6:35-46) wherein the amount of time corresponding channels have been viewed serves as a program recommendation scores and the recommendation scores being based on the at least two viewing history subsets, which contain information about total viewing time for the corresponding channels. The claimed “comparing the sets of program recommendation scores to identify a change in viewer preferences” is also met by the Bedard reference, as discussed in the previous Office Action, teaching the comparison of recent selections (viewing history subset 2) to old selections (viewing history subset 1) to determine if the profile should be updated (Bedard 6:33-63) wherein an update in the profile corresponds to the identification of a change in viewer preferences, since an update would not be necessary unless a viewer’s preferences have changed.

As to the Yoshinobu reference, the examiner respectfully submits that Applicant appears, again, to argue against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). It does not appear that Applicant argues against the Bedard and Yoshinobu combination. Although Applicant argues “[c]ombining Bedard with Yoshinobu does not overcome the above-identified deficiencies present in Bedard,” Applicant then proceeds to argue against the Yoshinobu reference individually. As discussed in the previous Office Action, the Yoshinobu reference was not relied upon to teach “compar[ing] the sets of program recommendation scores corresponding to two or more viewing history sub-sets to identify if a viewer’s viewing habits have changed.” This limitation was met by the Bedard reference as

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discussed above. As stated by Applicant, "[t]he Yoshinobu apparatus essentially creates a viewing history much like Bedard and tracks how often a particular channel is viewed at a given time interval." The Yoshinobu teaching, as admitted by Applicant, was the reason Yoshinobu was relied upon, since "the Bedard reference is silent as to recommending programs in a given time interval." In view of the discussion above, it is unclear why the Bedard and Yoshinobu combination do not meet the invention as claimed. Therefore, the examiner respectfully submits that Applicant's arguments are unpersuasive.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnny Ma whose telephone number is (571) 272-7351. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jm



VIVEK SRIVASTAVA
PRIMARY EXAMINER